

The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte J. LESLIE VOGEL III

Appeal 2007-1121
Application 09/659,864
Technology Center 2100

Decided: July 23, 2007

Before KENNETH W. HAIRSTON, JEAN R. HOMERE, and JOHN A. JEFFERY, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

I. STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 51. We have jurisdiction under 35 U.S.C. § 6(b) to decide this appeal.

II. ILLUSTRATIVE CLAIM

Claim 46 is illustrative of the invention. It reads as follows:

An apparatus comprising:
a means for accessing a wireless network, the means for accessing operable for receiving a connection request from a means for messaging through a setup connection, for sending a security preference that specifies one authentication protocol from a set of authentication protocols supported by the means for access, for validating authentication information sent by the means for messaging, and for connecting the means for messaging to the wireless network through a channel secured with a shared channel key; and a means for messaging operable for sending the connection request to the means for accessing, and for generating the authentication information to send to the means for accessing.

III. PRINCIPLE OF LAW

The following rule applies to appeal briefs.

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(37 C.F.R. § 41.37(c)(1)(v)(2005)).¹ Such identification is "considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application." M.P.E.P. § 1205.02 (8th ed., Rev. 2, Aug. 2005).²

IV. ANALYSIS

Here, claims 46 through 51 comprise means-plus-function elements.

In addressing the cited claims, the *Summary of the Claimed Subject Matter*³ cites to Figure 2 and pages 10 through 14 of the Specification. Particularly, at page 2 of the Brief, Appellant's Summary states the following:

"Claims 46-51 are claims under 35 U.S.C. 112, sixth paragraph, and the corresponding structures are station 201 and access point 203 of Figure 2 as described on page 10, line 14 through page 14, line 10."

The cited portions of the Specification discuss the establishment of a secure wireless network connection between a user station 201 and a wireless access point 203 while Figure 2 illustrates the same. (Specification 10: ll. 15-16.)

The *Summary*, however, fails to particularly identify which of the disclosed structures (201 and 203) actually corresponds to the claimed "means for accessing a wireless network" and the claimed "means for messaging through the setup connection." The Specification does not clarify this ambiguity

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief.

² We cite to the version of the Manual of Patent Examining Procedure in effect at the time of the Appeal Brief.

³ We further note, in connection with the discussion of claims 1 through 45 that the *Summary* does not refer to the drawings by reference characters.

Appeal 2007-1121
Application 09/659,864

either. Consequently, we decline to substitute speculation about where the structure corresponding to the claimed subject matter is described in the application for the greater certainty that should come from the Appellant.

Appellant should identify, in independent claim 46 and any separately argued dependent claims, each "means plus function" limitation and provide a mapping to the specification and drawings. In particular, the mapping of each of the claimed limitations should be clarified to include specific reference characters of the drawings and pages and lines of the specification. This clarification is needed for a meaningful review.

V. CONCLUSION

Under 37 C.F.R. § 41.50(d)(2006), Appellant is given a non-extendable time period of thirty days within which to respond to this order. Failure to comply with the order within that time may result in the *sua sponte* dismissal of the appeal. (37 C.F.R. § 41.50(d)). No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2007-1121
Application 09/659,864

ORDERED

41.50(d)

eld

Sheryl Sue Holloway
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard 7th Floor
Los Angeles CA 90025